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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,842	07/01/2003	David A. Field	GP-302850	2768
7590	04/12/2006		EXAMINER	
KATHRYN A. MARRA General Motors Corporation Legal Staff, Mail Code 482-C23-B21 P.O. Box 300 Detroit, MI 48265-3000			SUHOL, DMITRY	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/611,842

**Applicant(s)**

FIELD ET AL.

**Examiner**

Dmitry Suhol

**Art Unit**

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Double Patenting*

Claims 7-12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application No. 11/069173. Although the conflicting claims are not identical, they are not patentably distinct from each other because they only differ in terminology used. For example, the bending element and associated curvature described in application 11/069173 is an obvious variation of a draw die and associated curve extending between a first and second ends.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-6 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 11/069173. The claims application 11/069173 disclose a bending die capable of producing the form as claimed in claims 1-6 of application 10/611842, therefore it would have been obvious to manufacture the claimed form since it would only depend on the needs of the user of the device.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Zatti '087. Zatti discloses a bending die (16) containing all of the claimed elements including, a curve extending between first and second ends where the portion of the curve is a circular arc with a transition portion (being clothoid) extending from the arc toward the second end with a gradually decreasing curvature (figure 1). Regarding claims 10-12, the curve subtending an angle of 90, greater than 90 or less than 90, as required by claims 10-12 respectively, it is considered that Zatti encompasses all of the above limitations since the angle measurement would only depend upon the distance a pipe to be bent travels along the curved portion (as shown in figure 1).

Claims 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanseau et al '248. Sanseau discloses a bending die containing all of the claimed elements including, a curve extending between first and second ends where the portion of the curve is a circular arc with a transition portion (being clothoid) extending from the arc toward the second end with a gradually decreasing curvature (figures 3 and 4, where the ends are considered to be portions A and B shown in figure 4). The limitations of claim 9 are shown in figure 4. Regarding claims 10-12, the curve

Art Unit: 3725

subtending an angle of 90, greater than 90 or less than 90, as required by claims 10-12 respectively, it is considered that Sanseau encompasses all of the above limitations since the angle measurement would only depend upon the distance a pipe to be bent travels along the curved portion.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

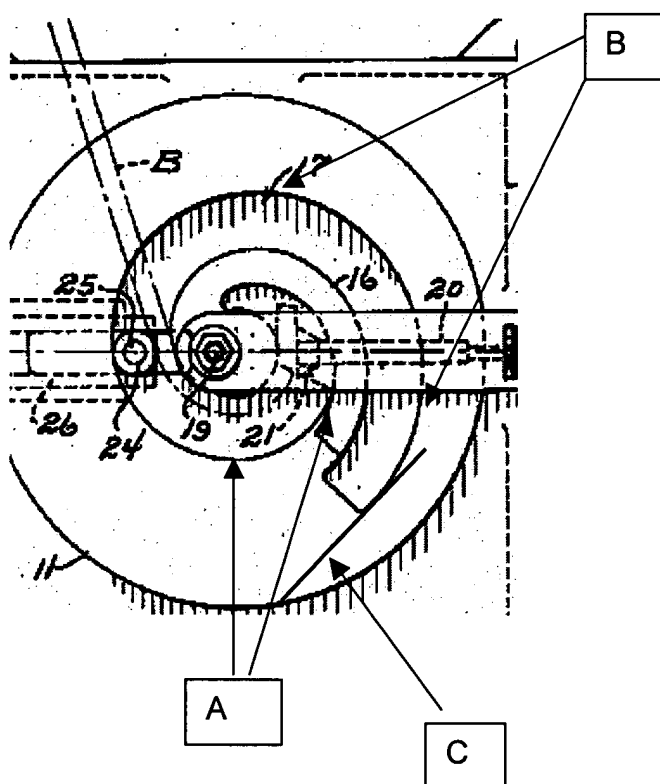
Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zatti '087 or Sanseau et al '248. Since the dies of Zatti and Sanseau contain all of the claimed features of the die they are considered to be capable of manufacturing a tube structure of claims 1-6 and therefore it would have been obvious to one with ordinary skill in the art, at the time of the claimed invention, to have manufactured a tube/pipe structure as claimed in claims 1-6 since it would only depend upon the desired structure to be achieved and since the dies of Zatti and Sanseau are clearly capable of manufacturing the above structure.

### ***Response to Arguments***

Applicant's arguments filed 12/23/2005 have been fully considered but they are not persuasive. Applicants argue that the references of Zatti and Sanseau do not

Art Unit: 3725

disclose all of the claimed features. In response the examiner points out that Zatti clearly shows in his figures a bending die which may encompass any desired shape including a circular, spiral, egg, oval shaped or any other desired shape, however the shape shown in figure 1 clearly shows an arcuate portion whose boundaries are labeled A (below) and a transitional portion whose boundaries are labeled B (below) which gradually approaches a zero curvature (indicated by line C below).



Sanseau also discloses the claimed invention in that the circular arc portion is clearly shown as segment between points A and Ma, while a transition portion is shown as curved portion 8.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3725

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Dmitry Suhol  
Primary Examiner  
Art Unit 3725

ds